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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/763,360	08/09/2001	Nicholas Webb	3036/49686	5293

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EXAMINER	
MENGISTU, AMARE	
ART UNIT	PAPER NUMBER
2673	

DATE MAILED: 08/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/763,360

Applicant(s)

WEBB ET AL.

Examiner

Amare Mengistu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29-31, 34 and 35 is/are allowed.
- 6) ☒ Claim(s) 21-28, 32, 33 and 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 33 and 33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite

for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation of claim 32, lines 8 "*a human detachable output unit*" is not clear.

What does *a human detachable output unit* mean? How does a human have a detachable output unit?

The recitation of claim 33, lines 7" comparing said acoustic signal with a *predefined signal*" is indefinite. What predefined signal is refereeing too? Where does this predefined signal located or how does this predefined signal is created or formed?

2. Claim 34 recites the limitation "**said predefined signal**" and "**the acoustically activated device**" in lines 3 and 4. There is insufficient antecedent basis for this limitation in the claim.

Claim Objections

3. Claim 26 is objected to because of the following informalities: "**analogue**" should have been "**analog**". Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

5. Claims 21,23-28,36 are rejected under 35 U.S.C. 102(e) as being anticipated by **Satake et al (20010035917)**.

As to claims 21 **Satake et al** (hereinafter **Satake**) a device for displaying information comprising: a display means (see, figs. 1-3,5-7 (1), (1a-1c)); activation means coupled to display means, for causing said display means to display predefined information upon reception of predefined acoustically propagated data broadcasted by a commercial broadcast source ([0027],[0028],[0035]), wherein said commercial broadcast source comprises one of a commercial radio broadcaster and a commercial television broadcaster ([0010],[0031]).

As to claims 23,27,28 **Satake** teaches programming said predefined data and said predefined information [an advertisement/a message] (fig.4; [0034],[0035]).

As to claim 24, **Satake** discloses that the display is LCD ([0026]).

As to claim 25, **Satake** also teaches said activation means is an application specific integrates circuit ([0027],[0028]).

In regard to claim 36, **Satake** shows that the predefined information includes a present visually discernable message or symbol which is different from the predefined acoustically propagated data (see, figs.2 and 3 [0026],[0028]).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 22 and 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Satake** in view of **Ely** (2001/0006369)

As to claim 22, **Satake** discloses said acoustic propagated data are incorporated in an acoustic signal onto digitally modulated (col.3, lines 39- 43).

In regard to claims 22, 26, **Satake** discloses a portable device (such as PDA, telephone or the like; see [0024]). Therefore, it would be obvious for these devices to have a microphone and battery. **Satake** does not specifically detail having a digitally modulated an acoustic signal, analog to digital interface and a programmable digital processor. However, the patent of **Ely** is cited to teach that it is well known for a portable device to have an analog to digital interface (fig. 7(181), col.6 [0093]), a programmable digital processor (fig.7 (59); col.6 [0092]). It would have been obvious to one skill in the art to recognize that the acoustic signal of **Satake** will be modulated by analog to digital interface system of **Ely**.

Therefore, it would have been obvious to one skill in the art at the time of the invention was made to have been motivated to incorporate the analog to digital interface and a programmable digital processor of Ely into the system of Satake, since this will provide an accurate and improved the quality of the display.

Allowable Subject Matter

8. Claims 29-31,34-35 are allowed.
9. Claims 32 and 33 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
10. The following is an examiner's statement of reasons for allowance:

The cited prior arts [Satake et al] has failed to teach Applicant's claimed invention "***comparing said received acoustically propagated signal with a predefined signal; and when received acoustically propagated signal matches said predefined signal***"; "***means for comparing a content of said acoustically propagated signal with a stored predefined signal content; a human detectable output unit; and means for causing said output unit to generate a predetermined information signal upon detect of a match between said acoustically propagated signal and said predefined signal content, said predetermined information signal being on one of visually and audibly detectable form***" and "***a person wearing a badge while listening to one of cinema, radio and television program material, said badge having an acoustic detector, processor means for processing information received from said acoustic detector, and means for displaying predetermined visual indicators; upon determination by said***

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processor means that said acoustic detector has received predefined acoustic information, said processor means causing said display means to display a predetermined visual indicator associated with said predetermined information”.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Response to Arguments

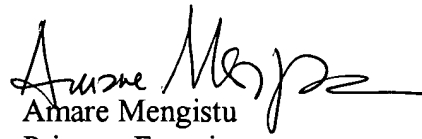
11. Applicant's arguments with respect to claims 21-36 have been considered but are moot in view of the new ground(s) of rejection.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amare Mengistu whose telephone number is (703)305-4880. The examiner can normally be reached on M-F,T-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin Shalwala can be reached on (703)305-4938. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Amare Mengistu
Primary Examiner
Art Unit 2673

AM
8/22/2005